

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAVID TROUPE,

Plaintiff,

V.

JAMES TUCKER, et al.,

## Defendants.

CASE NO. C14-5650 BHS

## ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation ("R&R")

of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 20), and

### Defendants' objections to the R&R (Dkt. 21).

On March 16, 2015, Judge Creatura issued the R&R recommending that the Court grant Defendants' motion for summary judgment, deny Defendants' request to find the action frivolous and malicious, and dismiss Plaintiff David Troupe's ("Troupe") complaint. Dkt. 20. On March 30, 2015, Defendants filed objections to the recommendation regarding denial of their request to deem the action frivolous and malicious. Dkt. 21. On April 13, 2015, Troupe responded to the objections. Dkt. 23.

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the  
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 Upon review of the briefs and the record, the Court denies Defendants' objections.

4 The Court finds that, while the legal and factual issues raised by Troupe could only result  
5 in granting summary judgment for Defendants, there is no basis to find that they are  
6 frivolous or abusive of the judicial process. Troupe, however, is sailing very close to the  
7 shoals of frivolousness with his pleadings. Any further complaints filed in this Court  
8 lacking merit to the extent of the current one will be considered additional evidence of  
9 malicious abuse of process.

10 Therefore, the Court having considered the R&R, Defendants' objections, and the  
11 remaining record, does hereby find and order as follows:

- 12 (1) The R&R is **ADOPTED**;
- 13 (2) Defendants' motion for summary judgment is **GRANTED**;
- 14 (3) Troupe's *in forma pauperis* status is **REVOKED**;
- 15 (4) Troupe's remaining motions are **DENIED as moot**; and
- 16 (5) This action is **DISMISSED**.

17 Dated this 28<sup>th</sup> day of May, 2015.

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BENJAMIN H. SETTLE  
United States District Judge